

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Currently there is no waiver service that pays for the 24-hour-per-day on-call aspect of an assisted living facility (ALF) for elderly waiver members. The only waiver avenues for ALF payment are consumer-directed attendant care (CDAC) (hands-on services), personal emergency response (PERS), and home-delivered meals. The nature of an ALF is that staff must be available 24 hours per day to meet the needs of the members. The definition of the current waiver services does not allow a per diem payment for on-call staff.

In addition, the federal Medicaid agency, the Centers for Medicare and Medicaid Services (CMS), has been strongly encouraging states to discontinue any policy that allows ALFs to bill CDAC services as one unit per month, regardless of the amount of service provision, for the balance of the waiver maximum. Iowa Medicaid has determined that ALF CDAC will be changed to a 15-minute unit with a corresponding 15-minute fee (addressed in another rule making). The application of this CDAC definition change has the potential to drastically reduce monthly payments to ALFs. Creating a new service at the same time will allow the member and provider to appropriately access maximized waiver funding.

Waiver funding may be transferred from CDAC to the on-call service. There should be minimal impact on members because the waiver will continue to pay for necessary CDAC, PERS, or meal services in addition to the on-call service. Providers will experience a change in the way they bill services to Medicaid.

The state will offer services through assisted living facilities that are in line with current guidance from the Centers for Medicare and Medicaid Services.

Any interested person may make written comments on the proposed amendments on or before October 23, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because Medicaid has determined that the rule should be applicable to all members and providers who are eligible. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 77.33(23):

77.33(23) Assisted living on-call service. Assisted living on-call service providers shall be assisted living programs that are certified by the department of inspections and appeals under 481—Chapter 69.

ITEM 2. Adopt the following **new** subrule 78.37(18):

78.37(18) Assisted living on-call service. The assisted living on-call service provides staff on call 24 hours per day to meet a member’s scheduled, unscheduled, and unpredictable needs in a manner that

promotes maximum dignity and independence and provides safety and security. A unit of service is one day. To determine units of service provided, the provider will use census information based on member bed status each day.

ITEM 3. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by adopting the following **new** numbered paragraph “35”:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
35. Assisted living on-call service providers (elderly waiver only)	Fee agreed upon by member and provider.	\$25.00 per day.